

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 22-MC-81945-AMC

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY AND STATE  
FARM FIRE & CASUALTY COMPANY,

Plaintiff,

vs.

HELDO GOMEZ, JR.,

Defendant.

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**REPORT AND RECOMMENDATION ON PLAINTIFFS' MOTION FOR  
FINAL JUDGMENTS OF GARNISHMENT [ECF No. 43]**

Plaintiffs, State Farm Mutual Automobile Insurance Company and State Farm Fire & Casualty Company ("State Farm"), move for entry of final judgments of garnishment against J.P. Morgan Chase Bank, N.A. ("J.P. Morgan") and First-Citizens Bank & Trust Company ("FCB") ("Motion"). ECF No. 43. For the reasons stated below, the Motion should be **GRANTED in part and DENIED in part**.

State Farm holds a Judgment against Heldo Gomez, Jr. for \$750,000.00. ECF No. 5 at 2. As relevant here, J.P. Morgan and FCB were served with the Writs on September 21, 2023. ECF Nos. 8 at 1-2, 7-8; 9; 12. Both garnishees timely answered the Writs. ECF Nos. 14, 15; *see* Fla. Stat. §77.04 (requiring garnishee to serve an answer within 20 days after service of the writ). FCB's answer to the writ stated that it held \$4,860.72 in an account in the name of "Heldo Gomez." ECF No. 14. J.P.

Morgan's answer to the writ stated that it retains \$46,554.17 in an account in the name of "Heldo Gomez, Jr. or Heldo Gomez, Sr." ECF No. 15.

On October 23, 2023, Mr. Gomez filed a motion to dissolve the writs of garnishment. ECF No. 25. That motion was denied by the undersigned on January 2, 2024, for the reasons stated in that order. ECF No. 46.

On January 5, 2024, the parties filed a joint notice stating that they agree to entry of Final Judgment of garnishment against J.P. Morgan. ECF No. 47-1. The parties also agree that the writ of garnishment issued to FCB should be dissolved. ECF No. 47-2. To date, no third party has stated a claim to the funds held by J.P. Morgan.

### **RECOMMENDATION**

Accordingly, this Court **RECOMMENDS** that the District Court GRANT in part and DENY in part the Motion for Final Judgments of Garnishment Against J.P. Morgan Chase Bank and First Citizens Bank & Trust Co. as follows:

1. GRANT the Motion for Final Judgment of Garnishment against J.P.

Morgan. This Court further recommends the District Court:

- a. Enter a separate Final Judgment in favor of State Farm, and against J.P. Morgan as garnishee, in the sum of \$46,554.17;
- b. Direct J.P. Morgan to pay to State Farm the amounts held by J.P. Morgan as garnishee, to wit: \$46,554.17 in the form of a check written to State Farm's counsel and mailed within twenty (20) days

of the entry of Final Judgment at the following address:

Philip J. Landau, Esq.,  
Landau Law, PLLC,  
3010 N. Military Trail, Suite 318,  
Boca Raton, FL 33431

- c. Direct State Farm to pay to garnishee J.P. Morgan, care of its attorneys, Homer Bonner Jacobs Ortiz, the \$100 statutory fee in accordance with Fla. Stat. §77.28 within twenty (20) days of the entry of this Final Judgment at the following address:

Andrew Heron, Esq.,  
1200 Four Seasons Tower,  
1441 Brickell Avenue,  
Miami, FL 33131

2. DENY the Motion for Final Judgment of Garnishment against FCB. This Court further recommends the District Court:

- a. Dissolve the Writ of Garnishment directed to FCB (ECF No. 8 at 7-8); and
- b. Discharge FCB from any further liability under the Writ of Garnishment.

### **NOTICE OF RIGHT TO OBJECT**

A party shall serve and file written objections, if any, to this Report and Recommendation with the Honorable Aileen M. Cannon, United States District Court Judge for the Southern District of Florida, within **FOURTEEN (14) DAYS** of being served with a copy of this Report and Recommendation. Failure to timely file objections shall constitute a waiver of a party's "right to challenge on appeal the

district court's order based on unobjected-to factual and legal conclusions." 11th Cir. R. 3-1 (2016).

**If counsel do not intend to file objections, they shall file a notice advising the District Court within FIVE DAYS of this Report and Recommendation.**

**DONE and SUBMITTED** in Chambers at West Palm Beach, Palm Beach County, in the Southern District of Florida, this 8th day of January, 2024.

A handwritten signature in black ink, reading "Bruce Reinhart", is written over a horizontal line.

BRUCE E. REINHART  
UNITED STATES MAGISTRATE JUDGE